HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 NO. 711 OF 2006

1. Anand Singh Pawar,
   D/o Sri Mollu Singh Pawar,
   District-Tehri Garhwal.
2. Nathi Singh, S/o Sri Garya Singh,
3. Badri Singh Pawar, S/o Sri Narayan Singh.

.....Petitioners

Vs.

1. State of Uttaranchal.
2. Naib Tehsildar, Pratap Nagar, District-Tehri Garhwal.
3. Patwari Chhatra, Garwnaoun, Tehsil – Pratap Nagar, District – Tehri Garhwal.
4. Ummed Lal, S/o Chebatiya, District-Tehri Garhwal.

.....Respondents.

Hon'ble Rajesh Tandon, J.

On 13th December, 2006, when the matter was listed on the request of Sri M.S. Chauhan, counsel for the applicant, the case was directed to be listed on 18th December, 2006.

2. I have perused the order passed in Criminal Misc. Application No. 294 of 2006 *Nathi Singh & Ors. Vs. State & Ors.*

3. In the present Criminal Misc. Application No. 711 of 2006 same Nathi Singh, Anand Singh and Badri Singh have been arrayed as the applicants.

4. The applicants have sought quashing of the proceedings of Case Crime No. 7/2006 U/s 323, 504, 506 I.P.C. and Section 3 (1) (X) of S.C. S.T. Act *Anand Singh & two others Vs. State and others* pending in the court of Judicial Magistrate Tehri.

5. Similar prayer has been made in Criminal Misc. Application No. 294 of 2006 and in that case the order was passed to the following effect:-

> "Having considered the material placed before me and after hearing learned A.G.A., for the State, I am of the view that there is no abuse of the process of court in this case. The averments made in the affidavit filed by the petitioners relate to the disputed question of fact, which can be judged and assessed by the trial court. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage. The judgment pertaining to the factual aspect of the matter to be rendered by me would amount to premature judgment at this stage where the evidence is still incomplete and hazy.
>
> Therefore, the petition lacks merit and is liable to be dismissed."

6. In view of the fact since the present petition under Section 482 of the Code of Criminal Procedure has been filed after the dismissal of the earlier petition, present petition under Section 482 of the Code of Criminal Procedure is, therefore, not maintainable and is liable to be dismissed.

7. Consequently, petition under Section 482 of the Cr.P.C. is dismissed.

(Rajesh Tandon, J.)

18.12.2006
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